

January 15, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services To Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems - ET Docket No. 00-258*

Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands - WT Docket No. 02-353

Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands - IB Docket No. 02-364

NOTICE OF ORAL EX PARTE COMMUNICATION

Dear Ms. Dortch:

Yesterday, Karen B. Possner of BellSouth Corp. and the undersigned, representing the Wireless Communications Association International, Inc. ("WCA"), met with Jennifer Manner and Nicole Stachs of Commissioner Abernathy's office to discuss the proposals pending in the *Third Notice of Proposed Rulemaking* in ET Docket No. 00-258 for relocating Multipoint Distribution Service ("MDS") licensees from the 2150-2162 MHz band as part of the Commission's effort to free spectrum for Advanced Wireless Services ("AWS").

During the course of that meeting, WCA reviewed the record before the Commission, which illustrates that, except for the G Block, none of the bands under consideration in ET Docket No. 00-258 nor a band proposed by one commenter in IB Docket No. 02-364 are suitable for relocating MDS. WCA reminded Ms. Manner and Ms. Stachs that it has been more than three years since the MDS spectrum at 2150-2162 MHz was first targeted for relocation, discussed the adverse consequences the resulting regulatory cloud continues to have on the use of the band, and urged the Commission to move rapidly to relocate MDS to the G Block. WCA

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reiterated the proposals it advanced in its comments and reply comments in response to the *Third Notice of Proposed Rulemaking* in ET Docket No. 00-258. WCA distributed the attached summary of its position.

Should you have any questions regarding this presentation, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

Attachment

cc: Jennifer Manner
Nicole Stachs

The Early History of MDS 1 and 2 Relocation



- Relocation of MDS from 2150-2162 MHz to free band for AWS first proposed in NPRM in ET Docket 00-258 (released 1/01).
- In conjunction with First R&O decision to take 2.5 GHz band “off the table” for AWS, reallocation raised again in FNPRM (released 8/01).
- MDS industry prefers to remain at 2150-2162 MHz, but recognized that MDS was in the middle of likely AWS band, and offered to relocate so long as appropriate, interference-free spectrum could be identified, AWS auction winners funded all costs of licensees, operators and customers to migrate to other spectrum, and process could begin quickly.

The Early History of MDS 1 and 2 Relocation



- WCA demonstrated that alternatives for MDS proposed in FNPRM were not viable due to interference concerns. AWS proponents did not refute WCA or otherwise identify viable relocation spectrum for MDS.
- On 7/11/02, MDS industry submits proposal under which licensees would forfeit substantial technical flexibility and take 1910-1916/1990-1996 MHz band under same rules that apply to PCS.
- Without explanation, Nextel subsequently abandons proposal that it be given spectrum at 2020-2025/2170-2175 MHz as part of 800 MHz rebanding and instead requests 1910-1915/1990-1995 MHz.

The Relocation Today



- On 11/7/02, FCC adopts Second R&O in ET Docket 00-258, reallocates 1710-1755/2110-2155 MHz for AWS and announces that MDS relocation spectrum would be identified in a later order.
- On 2/10/03, FCC releases Third NPRM, implicitly concedes that WCA was correct in its assessment of viability of previously-proposed relocation spectrum, and solicits comment on new alternatives.

The Record in Response to Third NPRM



- 1910-1920 MHz
 - MDS and CMRS interests agree that MDS cannot operate on an unpaired basis at 1910-1920 MHz without causing interference to PCS upstream at 1850-1910 MHz.
 - Consensus agrees that G Block can be authorized with risk of unmanageable interference to PCS.
- 2020-2025 MHz (paired with 5 MHz at 2155-2180 MHz)
 - MDS and MSS agree that MDS downstream/TDD and MSS/ATC upstream in adjacent 2000-2020 MHz band will interfere.
 - MDS and BAS agree that they would interfere with each other.
- 2155-2180 MHz
 - CTIA, Cingular, ICO, WCA all agree that MDS cannot be accommodated without interference to AWS and MSS/ATC.

NPRM in IB Docket No. 02-364



- 2/10/03 NPRM proposes to reallocate 2483.5-2492 MHz and 2498-2500 MHz from Big LEO MSS for new services (perhaps unlicensed) or provide for additional round of Big LEO licensing.
- Verizon submits comments suggesting that Commission reallocate 2490-2500 MHz for relocation of MDS.

The Record in IB Docket IB Docket No. 02-364



- MSS/ATC cannot relocate to 2483.5-2490 MHz without interference to BAS at 2450-2483.5 MHz band and to WiFi.
- MDS would suffer harmful interference caused by OOB from MSS/ATC operations.
- MDS would cause harmful OOB interference to MSS/ATC operations.
- MDS would suffer harmful interference due to brute force overload ("BFO") by MSS/ATC operations.
- MDS would suffer harmful OOB interference from BAS operations.
- MDS would cause harmful OOB interference to BAS upstream operations.
- MDS would suffer harmful BFO interference from BAS operations.



**After Three Years Of Debate, The Only
Viable And Available Relocation Spectrum
Identified For MDS Remains
The 1910-1916/1990-1996 MHz Bands**

The AWS Service Rules



- 12/03 release of AWS Service Rules increases pressure to relocate MDS immediately.
 - FCC bans TDD usage in 1710-1755/2110-2155 MHz band because of coexistence concerns.
 - Until MDS is relocated, AWS must coordinate with cochannel and adjacent channel MDS licensees (Par. 115).
 - However, FCC refuses to adopt special spectral mask for AWS, allowing significant OOB from AWS into MDS spectrum (Par. 131). Downstream AWS will cause significant interference to and suffer significant from adjacent channel MDS, since mask is inadequate without guardband.